

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**THOMAS KEATHLEY and  
CONNIE KEATHLEY**

**PLAINTIFFS**

**v.**

**CIVIL ACTION NO. 3:21CV261-MPM-RP**

**BUDDY AYERS CONSTRUCTION, INC., et al.**

**DEFENDANTS**

**ORDER DENYING MOTION FOR RULE 35 EXAMINATION**

Defendants Buddy Ayers Construction, Inc. and David Fowler have filed a motion to compel a Rule 35 Examination of Plaintiff. Docket 148. The Case Management Order entered on May 12, 2022 dictates the following:

The court desires to avoid the necessity of filing written discovery motions where court participation in an informal discussion of the issue might resolve it, even after the parties have been unsuccessful in a good faith attempt to do so. Consequently, before a party may serve any discovery motion, counsel must first in good faith as required by Fed. R. Civ. P. 37(a)(1). If the attorney conference does not resolve the dispute, counsel must contact the chambers of the magistrate judge to request a telephonic conference to discuss the issue as contemplated by Fed. R. Civ. P.16(b)(3)(B) (v). Only if the telephonic conference with the judge is unsuccessful in resolving the issue may a party file a discovery motion.

Defense counsel has not requested a telephonic conference with the magistrate judge as required by the Case Management Order. Therefore, it is

**ORDERED**

Defendants' Joint Motion for Rule 35 Examination (Docket 148) is DENIED.

THIS, the 12th day of April, 2023.

/s/ Roy Percy  
UNITED STATES MAGISTRATE JUDGE